IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 18016 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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JARKANI FOOD INDUSTRIES - Petitioner(s)

Versus

STATE OF GUJARAT - Respondent(s)

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Appearance :

MR GM JOSHI for Petitioner(s) : 1,
MR PD BHATE, AGP for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 21/10/2005

ORAL JUDGMENT

Leave to amend the prayer clause granted.

2. Rule. Learned AGP Shri Bhate waives service of notice of rule on behalf of the respondent.

3. In the present petition, the petitioner has challenged the action of the respondent in demanding an amount of Rs.20,000/- on account of alleged breach of the provisions of the Factories Act in engaging a minor in breach of law. It is the case of the petitioner that the petitioner had not violated any of the provisions of law and no person below the permissible age limit was engaged. It is the case of the petitioner that the demand is sought to be raised and enforced without hearing the petitioner.

4. Learned AGP Shri Bhate appearing for the respondent agrees that no hearing was granted to the petitioner in this regard. In fact, he states that the respondent later on got material to suggest that the labourer concerned was more than 16 years on the date of inspection of the factory premises of the petitioner. Be that as it may, the demand of fine could not have been made without hearing the petitioner. This having not been done, the action of the respondent in seeking to collect fine of Rs.20,000/- from the petitioner cannot be sustained. The same is therefore set aside on the ground that no hearing was granted to the petitioner. The

petition is allowed to the limited extent. Rule is made absolute accordingly with no order as to costs.

(Akil Kureshi, J.)